

UNITED STATES COURT OF APPEALS

MAY 28 1998

TENTH CIRCUIT

PATRICK FISHER
Clerk

RODERICK BLAISDELL,

Petitioner - Appellant,

v.

GENE ATHERTON and GALE
NORTON,

Respondents - Appellees.

No. 98-1033

(D.C. No. 97-D-2170)

(D. Colo.)

ORDER AND JUDGMENT*

Before **ANDERSON, McKAY**, and **LUCERO**, Circuit Judges.

After examining Appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Petitioner-Appellant, Mr. Roderick Blaisdell, was convicted of several felonies in Colorado state court. After his conviction, Petitioner filed an

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Application for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254, in the U.S. District Court for the District of Colorado. The petition alleges that his detention is illegal because the statutes he violated do not conform to the Constitution of the State of Colorado. See R., Vol. I, Doc. 1. Petitioner also brought motions in the district court to proceed *in forma pauperis* and for appointment of counsel. See id., Docs. 2, 3. The district court denied the Application for a Writ of Habeas Corpus. See id., Doc. 4 at 5. Because the petition was denied, the court dismissed the motions as moot. See id. The district court subsequently denied Petitioner's motion for reconsideration, see id., Doc. 6, and Motion for a Certificate of Probable Cause (construed as a motion for a certificate of appealability). See id., Doc. 12. Petitioner asks this court to grant him a certificate of appealability, arguing that the district court was in error in dismissing his petition for a writ of habeas corpus. See Petitioner's Motion for Certificate of Appealability at 2-3.¹

We conclude, for the same reasons set forth in the district court's Order of Dismissal dated December 10, 1997, that Petitioner's constitutional rights have

¹ Petitioner has also moved this court for leave to proceed *in forma pauperis*. After that motion was filed, Petitioner paid the filing fee for this appeal in full. We therefore dismiss the Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees as moot.

not been violated. Accordingly, we **DENY** Petitioner a certificate of appealability, see 28 U.S.C. § 2253(c)(2), and **DISMISS** this appeal.

Entered for the Court

Monroe G. McKay
Circuit Judge